

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Peer KIRSCH, et al.

Serial No.: 10/536,803

Group Art Unit: 1625

Filed: May 27, 2005

Examiner: COVINGTON, Raymond K.

Title: TETRAHYDROPYRAN DERIVATIVES

REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

In response to the Office Action mailed on March 28, 2008, applicants elect with traverse Group I, claims 1-12, drawn to products. As a species applicants elect with traverse the compound identified as compound 5 on page 32 of the application. The traversal is on the grounds that the patent office has not established that it would pose an undue burden to examine the full scope of the claimed invention.

Additionally, applicants bring the attention of the Examiner to MPEP § 821.04, Rejoinder, which states that "if the elected invention is directed to the product and the claims directed to the product are subsequently found patentable, process claims [both process of making and using] which either depend from or include all the limitations of the allowable product will be rejoined." If the restriction requirement is maintained at this point, rejoinder of the non-elected claims is respectfully requested at the proper time in accord with the rejoinder provisions of the MPEP.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Csaba Henter/

Csaba Henter, Reg. No. 50,908
Anthony J. Zelano, Reg. No. 27,969
Attorneys for Applicants

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza I
2200 Clarendon Boulevard, Suite 1400
Arlington, Virginia 22201
Direct Dial: 703-812-5331
Facsimile: 703-243-6410

Attorney Docket No.: Merck-3017

Filed: May 1, 2008

K:\MERCK\3000 - 3999\3017\REPLY RESTR.DOC